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ARIZONA ATTORNEY GENERAL

January 30, 1985

The Honorable Tony West
Arizona State Senate
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: I85-016 (R85-006)

Dear Senator West:

You have asked if school districts may provide workers' compensation through a trust established pursuant to A.R.S. § 15-382.

A.R.S. § 15-382 authorizes school districts to establish "self-insurance" programs for employee benefits. The statute does not define or limit the employee benefits that are covered by it. Workers' compensation is a statutorily mandated employee benefit. Absent a limitation on the scope of the statute, we conclude that a school district may provide workers' compensation through a trust authorized by A.R.S. § 15-382.

The Workers' Compensation statutes also authorize school districts to self-insure workers' compensation benefits. A.R.S. § 23-962.A requires school districts to insure workers "in any manner prescribed by § 23-961." Under the statute, employers may secure workers' compensation through the State Compensation Fund or an insurance carrier authorized to write insurance in Arizona. An employer may also secure workers' compensation under A.R.S. § 23-961.A.2 which provides:

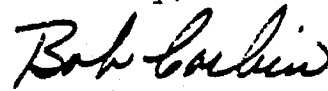
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By furnishing to the commission satisfactory proof of financial ability to pay the compensation directly in the amount and manner and when due as provided in this chapter. The commission may require a deposit or other security from the employer for the payment of compensation liabilities in an amount fixed by the commission, but not less than one hundred thousand dollars for workers' compensation liabilities. If the employer does not fully comply with the provisions of this chapter relating to the payment of compensation, the commission may revoke the authority of the employer to pay compensation directly.

This section allows modified self-insurance of workers' compensation. The employer must deposit a minimum of one hundred thousand dollars with the State Compensation Fund. This requirement is in addition to those in A.R.S. § 15-382.

In construing the applicable statutes, we read them together in order to give effect to both. See generally, Dupnik v. MacDougall, 136 Ariz. 39, 664 P.2d 189 (1983). Since the school benefits trust and workers' compensation statutes are complementary, rather than conflicting, effect must be given to both. We conclude, therefore, that a school district may self-fund workers' compensation benefits, but must comply with Titles 15 and 23 in doing so.

Sincerely,



BOB CORBIN
Attorney General

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